

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL**

DATE: SEPTEMBER 9, 2010

**SUBJECT: CASE NO. IPC-E-10-24 (Idaho Power)
FIRM ENERGY SALES AGREEMENT –
80 MW ROCKLAND WIND PROJECT LLC**

On September 8, 2010, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 25-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Rockland Wind Project LLC (Rockland) dated September 3, 2010.

AGREEMENT

Under the terms of the Agreement, Rockland will sell and Idaho Power will purchase electric energy generated by the Rockland Wind Project (Facility) located near American Falls in Power County, Idaho. The location of the Facility is more particularly described as Township 7 S, Range 31 E, Section 31; Township 8 S, Range 30 E, Sections 13, 24, 23-28, 33-36; Township 8 S, Range 31 E, Sections 6, 7, 16, 19, 30, 31 and Township 9 S, Range 30 E, Sections 1-5, 9-12, Power County, Idaho. Agreement Appendix B-2. Rockland warrants that the Facility is a qualifying facility (QF) under applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). Agreement ¶ 3.2.

The Rockland Wind Project will tentatively be comprised of 44 Vestas V100 turbines for a total nameplate rating of 79.2 MW. Agreement Appendix B-1. The maximum capacity amount is 80 MW. Appendix B-4. Because this amount exceeds 10 aMW, the Company ran its

AURORA economic dispatch model consistent with the Commission requirements for projects larger than 10 MW to establish a basis for the energy purchase price in the Agreement.

The Agreement with Rockland contains many terms and conditions that vary from the standard PURPA firm energy sales agreement typically submitted for approval by the Company. The varying terms and conditions of this Agreement include: (1) provisions for Partial Completion Damages; (2) simplified Mechanical Availability Guarantee (MAG) calculation; (3) providing Renewable Energy Credits (RECs) to the Company after year 2021; (4) better financial damage and security provisions for the benefit of customers; (5) more extensive wind forecasting data; (6) a 25-year contract term; and (7) an energy price that is lower than the published avoided cost rate. The non-standard terms and conditions are summarized below:

Partial Completion Damages. ¶ 5.11. The expected Nameplate Capacity of the Facility is 80 MW. If the Nameplate Capacity is less than 72 MW, Idaho Power will be entitled to collect Partial Completion Damages from Rockland in the amount of \$10,000 per MW less than 72 MW.

Mechanical Availability Guarantee. ¶ 6.6. The MAG calculation within this Agreement, the Company notes, is more stringent and potentially easier to administer than the MAG in standard PURPA agreements. In both this Agreement and standard PURPA agreements, the MAG is set at 85 percent. However, in this Agreement, the mechanical availability of the Facility is determined by dividing the availability of each turbine as recorded in the automated operating system of each turbine by the Nameplate Capacity of each turbine less Idaho Power caused curtailments. In comparison, in the standard PURPA agreements, impact of available wind, unplanned maintenance, and many other factors that are difficult to measure are included in the Mechanical Availability calculation.

Renewable Energy Credits.¹ Agreement Article VIII. The Facility retains the rights to all RECs through the end of calendar year 2021. ¶ 8.1. Idaho Power will own the rights to all RECs from the beginning of calendar year 2022 through the remaining term of the Agreement (a minimum of 15 years). ¶ 8.2. This allows the QF developer to retain the RECs for the initial 10 years of the Agreement and obtain what value it can for them to help offset the cost of development for the project at a time when the Company does not have a Renewable Portfolio

¹ Under Agreement paragraph 5.12, if Rockland is unable to obtain an agreement for the sale of RECs associated with the expected Net Energy (initial year 218,062,000 kWh, ¶ 6.4.1) produced by the Facility on terms acceptable to Seller, then Seller shall have the right to terminate the Agreement.

Standard (RPS) obligation for the RECs. At the same time, it also allows the Company to retain the RECs for the last 15 years of the Agreement, after the project is developed and mature, and when a future RPS may require the Company to obtain and have RECs.

Damages and Security. This Agreement, the Company contends, has considerably more identified damages and security requirements of Rockland than those that are typically applied to a QF project in a standard PURPA firm energy sales agreement. All specified damages are supported by liquid security requirements placed upon Rockland. Thus, in the event Idaho Power must exercise any of the damage claims, there is established security that Idaho Power may draw upon to satisfy the damages. Just as in standard PURPA agreements, Rockland must post \$45 per kW (80 MW equals \$3,600,000) of Delay Security that Idaho Power may draw upon if the Facility is delayed in achieving its Operation Date. ¶ 5.10.1. Additional security required in this Agreement that is above and beyond that required in standard PURPA agreements includes:

- (a) Signing Security - \$300,000. Rockland must post this security prior to Idaho Power filing this Agreement with the Commission seeking its approval. As of September 3, 2010, Rockland posted the required \$300,000 signing security with the Company. ¶ 5.9.
- (b) Operational Security - \$1,500,000. Rockland must post this security prior to the project achieving its Operation Date and shall then maintain this security for the full term of the Agreement. ¶ 5.3(e).

Wind forecasting. ¶ 9.3. In addition to Rockland being required to contribute to the Idaho Power wind forecasting cost as specified for all new PURPA wind agreements, the Agreement also requires Rockland to install, maintain, and provide wind measurement data from state of the art wind monitoring equipment to Idaho Power for the full term of the Agreement.

Contract Term. The Facility has selected July 15, 2011, as the Scheduled First Energy date and December 31, 2011, as the Scheduled Operation Date. Appendix B-3. The contract term specified in this Agreement is 25 years. ¶ 5.1. This term is greater than the standard term of 20 years as provided in the less than 10 MW PURPA agreements. This 25-year contract term was a result of negotiations that attempted to balance many related factors within the Agreement in a manner that was favorable to Idaho Power customers and also manageable for Rockland. Some of those factors are: the project's willingness to meet performance requirements for the full 25-year term; financial security in place for the entire term;

advantageous energy pricing for the years past 20 years; Idaho Power ownership of the RECs generated in years 11 through 25; and Idaho Power's right of first offer to participate in expansion and/or ownership of the Facility at any time during the term of the Agreement.

Energy Price. Agreement Article VII. As a basis for energy prices in this Agreement, Idaho Power executed the AURORA economic dispatch model for this Facility's estimated energy shape as specified by Commission requirements. This model provides strictly an energy price based upon the estimated generation from this Facility being available to meet Idaho Power's customers' energy needs. This AURORA energy price contains no value for RECs or other items of value identified within the Agreement. The energy price identified by the AURORA run, including a discount of \$6.50 per megawatt-hour (MWh) for wind integration, was a levelized price of \$56.21. In comparison, the published avoided cost levelized price for a 10 average MW or less PURPA wind project with a planned on-line year of 2011 is \$75.88 per MWh.

The negotiated levelized energy price contained within the Agreement for the 25-year term calculates to be \$71.29 per MWh. The actual all hours energy pricing stream (§ 7.3) begins at \$57.15 per MWh in 2011, escalates at 2.5 percent through the first 20 years to \$91.36 in the 20th contract year (2030), then escalates at a reduced rate of 2 percent for the last 5 years of the Agreement, ending at a price of \$101.37 in the 25th contract year (2035). In comparison, the published avoided cost rate available to PURPA wind projects less than 10 average MW for the year 2011 is \$55.26 per MWh, escalating to \$113.21 per MWh in year 2030. This Agreement also contains both the seasonal and time-of-day pricing as required in all PURPA agreements. §§ 7.1-7.2.

Although the \$71.29 levelized energy price within this Agreement is greater than the base AURORA value of \$56.21, the Company notes that it is also lower than the published avoided cost rate of \$75.88. This Agreement, the Company contends, provides many additional items of value to Idaho Power and its customers in comparison to a standard PURPA agreement for QFs 10 MW and under. Some of those items being REC ownership, greater security and damage provisions, wind forecasting data, additional contract years at comparatively lower cost, and the right of first offer for ownership or expansion of this site. In addition, the \$71.29 price is considerably lower than prices bid into the 2012 wind RFP issued in May 2009, which Idaho Power recently concluded without awarding a contract.

Idaho Power believes that the negotiations with Rockland, which resulted in the present Agreement, evidence the fact that the large PURPA negotiation process for large QFs greater than 10 MW is viable and can result in a project that is both feasible for the developer and favorable to Idaho Power customers.

Interconnection and Transmission

The Firm Energy Sales Agreement provides that Rockland must have completed an interconnection feasibility study, is responsible to complete a Generation Interconnection Agreement (GIA), and is responsible for all costs associated with interconnection of the Facility to Idaho Power's system. ¶ 5.8. As of the time of filing this Application, Idaho Power has completed the feasibility study, and Rockland has accepted the same. The parties are in the final stages of a facility study with an executed Generation Interconnection Agreement to follow. Idaho Power Power Supply has also filed a Transmission Service Request for this project (rated at 80 MW) and has received a favorable response from the transmission group that transmission capacity is available for this project contingent upon completion of the GIA and this Agreement.

This Agreement provides that it will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Rockland for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. ¶ 21.1. Additionally, during negotiations, Rockland advised Idaho Power that they have some key time constraints on developing this project and desired a provision that allows them to terminate the Agreement if Commission approval is not received within 90 days after the Agreement is filed for approval at the Commission. ¶ 21.2. The Company notes that it was hesitant to agree to include such a provision in the Agreement, being mindful of the Commission's process and procedure and aware of the fact that the Commission has many demands upon its time and resources. The Company recommends that its Application be processed pursuant to Modified Procedure and believes that if such procedure is followed that it is possible for the Commission to complete its review and issue an Order within 90 days of the initial filing.

COMMISSION DECISION

Submitted in Case No. IPC-E-10-24 is a negotiated Firm Energy Sales Agreement between Idaho Power Company and Rockland Wind Project for an 80 MW wind facility located in Power County, Idaho. Idaho Power and Commission Staff recommend that the Application be

processed pursuant to Modified Procedure. Does the Commission agree with the recommended procedure?

A handwritten signature in black ink, appearing to read "Scott Woodbury", written over a horizontal line.

Scott Woodbury
Deputy Attorney General

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